

CITY COUNCIL AGENDA

APRIL 16, 2013

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:07 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

7:00 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (District 4)**
Tony Salazar, Hope Services, sang for the Invocation.
- **Pledge of Allegiance**
Mayor Reed, accompanied by Third Grade Students, Payne Elementary School, led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Ceremonial Item 1.3 dropped.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing the week of April 14-20 as “National Library Week” in the City of San José. (Chu)
Mayor Reed and Council Member Chu recognized the week of April 14 through April 20, 2013 as “National Library Week” in the City of San José.
- 1.2 Presentation of a proclamation declaring April 22, 2013 as “Earth Day” in the City of San José. (Chu)
Mayor Reed and Council Member Chu recognized April 22, 2013 as “Earth Day” in the City of San José.
- 1.3 Presentation of a commendation to the Association for Viet Arts (AVA), which, as the first nonprofit Vietnamese arts organization in the Bay Area, has fostered excellence in Vietnamese American performing, visual, and literary arts and enriched the cultural landscape of this region. (Nguyen)
Dropped per Orders of the Day.
- 1.4 Presentation of a proclamation declaring the month of April as “National Autism Awareness Month” in the City of San José. (Rocha)
Heard in the Evening.
Mayor Reed and Council Member Rocha recognized the month of April as “National Autism Awareness Month” in the City of San José.
- 1.5 Presentation of a commendation to Good Karma Bikes for their contribution to the Transportation for Transformation movement. (Liccardo)
(Rules Committee referral 4/10/13)
Mayor Reed and Council Members Liccardo and Oliverio recognized and commended Good Karma Bikes.
- 1.6 Presentation of a commendation to the nominees of the Outstanding Contributor to Childcare Awards for their exceptional contributions to the needs of young children and their families particularly within quality, licensed child care. (Oliverio)
Heard in the Evening.
Mayor Reed and Council Member Oliverio recognized and commended the nominees of the Outstanding Contributor to Childcare Awards.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
There were none.
- 2.2 **Final Adoption of Ordinances.**
There were none.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of November 7, 2012. (Mayor)
- (b) Rules and Open Government Committee Report of November 14, 2012. (Mayor)
- (c) Rules in Lieu Report of November 20, 2012. (City Clerk)
- (d) Rules and Open Government Committee Report of November 28, 2012. (Mayor)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Agreement with Los Esteros Critical Energy Facility, LLC.

Recommendation: Approve the easement modification agreement with Los Esteros Critical Energy Facility, LLC, extending the length of the existing permanent easement for ingress and egress to connect existing Los Esteros Critical Energy Facility, LLC facilities to Pacific Gas and Electric Company's sub-station facility. CEQA: Los Esteros Critical Energy Facility EIR, File No. PDCSH01-088, (Resolution No. 70259). Council District 4. (Economic Development)

Approved.

2.8 Report on Bids and Award of Contract for the Circuit Breaker Replacement Project.

Recommendation:

- (a) Award the construction contract for the 115KV Circuit Breaker Replacement Project to the low bidder, Clyde G. Steagall, Inc., Lomas, CA in the amount of \$344,927.
 - (b) Approve a contingency in the amount of \$34,493.
- CEQA: Exempt, File No. PP12-089. (Environmental Services)

Approved.

2. CONSENT CALENDAR

2.9 Report on Bids and Award of Contract for Repairs and Installation of Water Services and Mains.

Recommendation:

- (a) Report on bids and award of contract for 7146-Repairs and Installation of Water Services and Mains: 2013, to the lowest responsive bidder, San José Water Company, for the initial term of May 2013 through May 2015, in an amount not to exceed \$2,087,117.

Approved.

- (b) Adopt a resolution authorizing the Director of Environmental Services to exercise two options: one option to extend the term for an additional one-year after the initial term for an amount not to exceed \$1,043,558, and a second option to extend the term for an additional year after the first option year for an amount not to exceed \$1,043,558.

CEQA: Exempt, File No. PP12-108. (Environmental Services/Public Works)

Resolution No. 76603 adopted.

2.10 Park Trust Fund Annual Report for Fiscal Year 2011-2012.

Recommendation: Accept the Park Trust Fund annual report for fiscal year 2011-2012.

CEQA: Not a Project, File No. PP10-069(a), Annual reports and assessments. (Parks, Recreation and Neighborhood Services)

Accepted.

2.11 AB 503, Agnews Developmental Center: Transfer of Title.

Recommendation: As recommended by the Rules and Open Government Committee on April 3, 2013, adopt a resolution in support of AB 503, Agnews Developmental Center: Transfer of Title. (Chu)

[Rules Committee referral 4/3/13 – Item G(2)]

The memorandum from Mayor Reed and Council Member Chu, dated April 11, 2013, was approved and a resolution of support of AB503 was adopted.

The City Manager was directed to:

- (a) **Pursue a zoning designation that allows the future development of a K-12 school campus by Santa Clara Unified School District on 54 acres of the 81 acre Agnews property on Zanker Road and River Oaks Parkway and a regional park and other public uses on the balance of the site.**
- (b) **Initiate conversations with the State Department of General Services regarding City interest in acquiring the remaining acreage for regional park purposes and return to Council with a status report on feasibility of funding such a use in partnership with other County and regional partners.**

The City Attorney was directed to amend the resolution by adding to the last section a reference to educational services and a joint use plan for parks.

Resolution No. 76604 adopted, as amended.

2. CONSENT CALENDAR

2.12 Council Member Campos' Travel to Long Beach, CA.

Recommendation: Approve travel by Council Member Campos to Long Beach, CA on April 18-21, 2013 to attend the League of California Cities' Latino Caucus board meeting. Source of Funds: Mayor & Council Travel Fund. (Campos)
(Rules Committee referral 4/10/13)

Approved.

2.13 City Auditor's Travel to Nashville, TN.

Recommendation: Approve travel by the City Auditor to Nashville, TN on May 5-7, 2013 to attend the Association of Local Government Auditors (AGLA) 25th Annual Conference. Source of Funds: City Auditor's Non Personal Appropriation and Professional Development Funds. (City Auditor)
(Rules Committee referral 4/10/13)

Approved.

2.14 AB 639 (Perez) – Veterans Housing & Homeless Prevention Act of 2014.

Recommendation: As recommended by the Rules and Open Government Committee on April 10, 2013, approve a support position for AB 639 (Perez) – Veterans Housing & Homeless Prevention Act of 2014. (Housing)
[Rules Committee referral 4/10/13 – Item G(2)]

Support Position Approved.

2.15 League of California Cities Proposed Amendments to Bylaws.

Recommendation: As recommended by the Rules and Open Government Committee on April 10, 2013, approve the following positions on amendments to be considered by the League of California Cities (LOCC) membership and responded to by a mail in ballot:

- (a) Approve an oppose position to Amendment #1, Resolutions submitted to the League for presentation to the General Assembly must be concurred in by at least five or more cities or by city official from at least five or more cities.

Oppose Position Approved.

- (b) Approve a support position for Amendment #2, the League Board may take a position on a statewide ballot measure by a 2/3rd vote of the Directors present. Currently, the Board may take positions with a simple majority vote.

(City Manager's Office)

[Rules Committee referral 4/10/13 – Item G(3)]

Support Position Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.
Heard at 9:00 a.m.
No Report.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Economic Strategy Update and Proposed 18-Month Work Plan.

Recommendation: As recommended by the Community and Economic Development Committee on March 25, 2013, accept staff's report on:

- (a) The Accomplishments of Economic Strategy Workplan to date;
- (b) The status and use of development incentives;
- (c) The status of campus development and leasing opportunities; and
- (d) The proposed Economic Strategy Work Plan.

CEQA: Not a Project, File No. PP10-066(a), Staff Report. (Economic Development)

The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Liccardo, dated April 12, 2013, was approved, and accepted the Staff report on the accomplishments of the Economic Strategy Work Plan to date, the status and use of development incentives, the status of campus development and leasing opportunities and the proposed 18 month Work Plan (July 2013 through December 2014) with further direction to:

- (1) **Focus on implementing the following Highest Priority Strategic Goals and Actions listed in Exhibit B of the 18 month Work Plan as described below.**

- (a) **Goal #6: Improve the Speed, Consistency and Predictability of the Development Review Process and Reduce Costs of operating a business in San José.**

6.a Working through the Mayor's Ad Hoc Committee on Economic Competitiveness, ensure the timely delivery of major development projects that can have a measureable impact on job creation or revenues within the next 18 months, including those that will generate tax increment, property tax revenues, or sales tax revenues

6.c Retain and improve the Expedited Planning Permit, Special Tenant Improvement and Industrial Tools Installation programs and continue to reorganize and streamline the development review process.

(Action continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Economic Strategy Update and Proposed 18-Month Work Plan. (Cont'd.)

- (1) (b) Goal #1: Encourage Companies and Sectors that Can Drive the San Jose/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure.**
 - 1.a Through the City's ongoing Business Outreach Program, incorporate focused retention and expansion visits with driving industry companies.**
 - 1.c Promote the key attributes of San Jose to businesses looking to expand or move as well as to property owners and the brokerage and development community.**
- (c) Goal #2: Develop Retail to Full Potential, Maximizing Revenue Impact and Neighborhood Vitality.**
 - 2.a Advance destination retail projects on existing sites through the planning stage, including Almaden Ranch, Evergreen Arcadia, and Hitachi Cottle Road.**
 - 2.b Support retail and small businesses in Downtown and Neighborhood Business Districts and advance goals to provide access to public transportation as needed.**
- (d) Goal #3: Preserve and Strengthen Manufacturing-Related Activity and Jobs.**
 - 3.a Preserve industrial lands and facilities that support manufacturing and protect existing industrial land uses from incompatible uses.**
- (e) Goal #9: Keep Developing a Competitive, World Class Airport, and Attract New Air Service.**
 - 9.a Maintain a cost-competitive, efficient and attractive airport that can successfully compete with airports in the Bay Area and across the nation in recruiting carriers and flights to serve Silicon Valley.**
 - 9.b. Execute strategy to recruit new international and domestic air service in partnership with the Silicon Valley business community.**
 - 9.c Facilitate private sector development of a new general aviation facility on the Airport's west side property.**
- (f) Goal #10: Continue to Position Downtown as Silicon Valley's City Center.**
 - 10.b Position Downtown San Jose as an easy-to-access, competitive work environment for start-ups, scaling businesses, and freelancers by highlighting our innovation and creativity.**
 - 10,c Maintain a dialogue with existing downtown businesses, property owners and brokers to retain and grow and attract new businesses.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Economic Strategy Update and Proposed 18-Month Work Plan. (Cont'd.)

- (1) (g) **Goal #12: Develop a Distinctive Set of Sports, Arts, and Entertainment Offering Aligned with San Jose's Diverse, Growing Population.**
 - 12.a Enable construction of the San Jose Earthquakes Major League Soccer Stadium.
 - 12.b Continue planning for a Major League Baseball facility in the Diridon Station Area.
- (2) Update the Community and Economic Development Committee and City Council with six month progress reports of the accomplishments associated with implementing the Highest Priority Strategic Goals and Actions.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the Award of a Ground Lease and Operating Agreement to Signature Flight Support.

Recommendation: Accept report on curfew provisions for fixed base operator agreements at the Norman Y. Mineta San José International Airport, approve curfew provisions for proposed fixed base operator ground lease and operating agreement with Signature Flight Support, and adopt a resolution authorizing the City Manager to execute agreements and amendments as authorized by the City Council on April 9, 2013. CEQA: Airport Master Plan EIR, Resolution Nos. 67380 and 71451, with Addendum, File No. PP13-022. (Airport)

(Referred from 4/9/13 – Item 6.1)

Heard in the Evening following Ceremonial Items.

The memorandum from Mayor Reed and Council Members Herrera and Liccardo, dated April 12, 2013, was approved, the Staff Report on curfew provisions were accepted, with Staff directed to ensure that the terms and conditions relating to the Airport Curfew Ordinance in the lease agreement with Signature Flight Support are consistent with conditions imposed on existing airline tenants that require compliance with applicable laws, including the Curfew Ordinance. The memorandum from Council Member Chu, dated April 12, 2013, recommending revising the additional airport curfew provisions to eliminate the eviction violation and direct Airport Staff to explore the feasibility of escalating fines for repeated airport curfew violations, was referred to the Rules and Open Government Committee.

Resolution No. 76605 adopted.

Noes: Oliverio.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to Amending Title 15 and Title 20 of the San José Municipal Code Regarding Water Efficient Landscape Standards and Regulations.

Recommendation: Consideration of an ordinance of the City of San José amending Section 15.10.290 of Chapter 15.10 of Title 15 (Public Utilities), Chapter 15.11 of Title 15 in its entirety, and Section 20.100.440 of Chapter 20.100 of Title 20 (The Zoning Ordinance) of the San José Municipal Code, all to modify the Water Efficient Landscape Standards for New and Rehabilitated Landscaping and to establish Water Efficient Landscape Regulations pursuant to State Law and to make other technical, formatting, or other nonsubstantive changes with those Chapters of Title 15 and Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the envision San José 2040 General Plan, EIR Resolution No. 76041 (File No. PP12-100). Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement) (Deferred from 3/26/13 – Item 7.1)

Ordinance No. 29243 passed for publication.

Noes: Constant, Khamis.

7.2 Burrowing Owl Habitat Improvements at Water Pollution Control Plant.

Recommendation: As recommended by the Transportation and Environment Committee on April 8, 2013, accept the progress report highlighting habitat improvement activities for the Western Burrowing Owl on San José/Santa Clara Water Pollution Control Plant (WPCP) bufferlands that began in 2012. CEQA: Not a Project, File No. PP10-069(a), Informational Memos that involve no approvals of any City actions. (Environmental Services) [Transportation and Environment Committee referral 4/8/13 – Item D(5)]

Accepted.

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Designation of Chief Financial Officer for the Successor Agency to the Redevelopment Agency.

Recommendation: Approve the designation of the City's Director of Finance as the Chief Financial Officer of the Successor Agency to the Redevelopment Agency of the City of San José. CEQA: Not a Project, File No. PP10-069, City organizational and administrative activities. (Successor Agency)

Approved.

- **Open Forum**
 - (1) **Mark Trout voiced his own religious point of view.**
 - (2) **Ross Signorino commented about the recent tragedy in Boston, Massachusetts.**
- **Adjournment**

The Council of the City of San José adjourned the afternoon session at 4:03 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearings at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

11.2 Administrative Hearing and Consideration of an Appeal of the Planning Commission's Decision to Deny a Conditional Use Permit.

Recommendation: Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's decision to deny a Conditional Use Permit to allow the development of an approximately 3,911 square-foot public eating establishment with a drive-through use on an approximately 13.1 gross-acre parcel in the CN-Commercial Neighborhood Zoning District, located at/on the east side of Miller Avenue approximately 350 feet southerly of Bollinger Road within the Orchard Farm Center Shopping Center (6148 Bollinger Road) (Christopher Marchese Trustee & Et Al, Owner/McDonald's, Developer). CEQA: Mitigated Negative Declaration, File No. CP11-026 and H12-001. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial.

CP11-026 – District 1

Resolution No. 76606 adopted to uphold the Planning Commission's Decision and denied the appeal.

Noes: Campos, Constant, Khamis; Reed.

11.3 Administrative Hearing and Consideration of a Planned Development Permit and Determination of Public Convenience or Necessity to Allow the Off-Sale of Alcohol.

Recommendation: Conduct an Administrative Hearing and consider a Planned Development Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol (wine) in association with wine pairing events and classes within an existing 1,484 square foot restaurant (Savory Kitchen), located on the south side of The Alameda between Wilson Avenue and Bush Street (754 The Alameda) (Bay Apartment Communities Inc, Owner). Council District 6. CEQA: Final Supplemental EIR, "Westpark Apartments," Resolution No. 68748. Planning Commission recommends approval (6-0-1).

PD12-049/ABC12-015 – District 6

Resolution No. 76607 adopted.

11. PUBLIC HEARINGS

11.4 Rezoning Real Property Located Between Race Street and Grand Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located between Race Street and Grand Avenue, approximately 300 feet southerly of Park Avenue (253 Race Street) from the CP-Commercial Pedestrian Zoning District to the A(PD) Planned Development Zoning District to allow for the development of up to 70 attached residential units and 13,080 square feet of ground floor commercial space on a 2.3 gross acre site. CEQA: Mitigated Negative Declaration, Resolution to be adopted. Planning Commission recommends approval (6-0-1).

PDC11-005 – District 6

Ordinance No. passed for publication.

CEQA Resolution No. 76608 adopted.

- **Open Forum**
There were none.

- **Adjournment**
The Council of the City of San José was adjourned at 11.08 p.m.